IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

Crl.MC.No. 244 of 2007()

ST.31/2006 of JUDL.MAGISTRATE OF FIRST CLASS, KARUNAGAPPALLY

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PETITIONER: ACCUSED:

IMMANUEL MORRIS, AGED 49,
S/O.JOSSIE MORRIS, POONTHAYIL HOUSE,
NEENDAKARA P.O., KOLLAM DISTRICT.

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 244 of 2007

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Dated this the 1st day of February, 2007

O R D E R

The petitioner is the accused in a prosecution under Section 138 of the N.I. Act. The case has now reached the stage of S.313 examination. On 3.1.2007 when the case was posted, the petitioner was not present. Non-bailable warrant has been issued against him. He apprehends that when he surrenders and applies for bail, his application will not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail.

2. No such direction can or need be issued. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear before the learned Magistrate on the last date of posting. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or

specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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